

DIRECT TAX AMENDMENTS FOR 2017 NOVEMBER EXAMS

BASIC CONCEPTS IN INCOME TAX LAW

1. Tax rates

A. INCOME TAX RATES APPLICABLE FOR INDIVIDUAL ASSESSEE:

Particulars	Exemption Limit	Tax Rate @10%	Tax Rate @20%	Tax Rate @30%
Resident Women & Any other Resident Individual	Upto ₹2,50,000	₹2,50,001 to ₹5,00,000	₹5,00,001 to ₹10,00,000	₹10,00,001 and above
Senior Citizen aged above 60 years and below 80 years	Upto ₹3,00,000	₹3,00,001 to ₹5,00,000	₹5,00,001 to ₹10,00,000	₹10,00,001 and above
Senior Citizen aged above 80 year	Upto ₹5,00,000	NIL	₹5,00,001 to ₹10,00,000	₹10,00,001 and above

B. Surcharge for individuals, HUF, AOP, BOI, AJP is 15%

C. Sec 87A:- Rebate of maximum ₹5,000 for RESIDENT INDIVIDUALS having total income upto ₹ 5 lakhs

Conditions-

- ♣ The assessee is an Individual. [Other than SUPER SENIOR CITIZEN.]
- ♣ He is **resident** in India.
- ♣ His total income does not exceed ₹5, 00,000.

Quantum of Rebate-

Least of the following-

- a. the amount of income tax payable on the total income for the Assessment year or
- b. ₹5,000.

NOTE- Rebate U/S 87A shall be calculated BEFORE LEVY OF EDUCATION CESS.

D. INCOME TAX RATES APPLICABLE FOR ASSESSEE [OTHER THAN INDIVIDUALS]:

FOR OTHER ASSESSEES/ PERSONS					
ASSESSEE	RATE OF TAX	TI < 1 CRORES	TI > 1 CRORE, BUT TI > 10 CRORES	TI > 10 CRORES	RATE OF EC AND SHEC
DOMESTIC COMPANIES	30%	-	7%	12%	3%
FOREIGN COMPANIES	40%	-	2%	5%	3%
FIRMS AND LLP	30%	-	12%	12%	3%
LOCA AUTHORITIES	30%	-	12%	12%	3%
CO-OPERATIVE SOCIETIES	10%	-	-	-	3%
FIRST ₹10,000	20%	-	-	-	3%
NEXT ₹10,000	30%	-	12%	12%	3%

FOR THE BALANCE

- E. ASSISTANCE IN THE FORM OF A SUBSIDY OR GRANT OR DUTY DRAW BACK OR WAIVER OR CONCESSION OR REIMBURSEMENT WILL BE TAXABLE AS INCOME.
[A.Y-2016-17]

AMENDMENTS**[A.Y-2016-17]**

Note- It will be taxable regardless of the fact whether subsidy or grant is received from central government or state government or any authority or body or agency. Further it will be taxable whether it is received in cash or kind.

However, subsidy or grant or reimbursement which taken into consideration for determination of ACTUAL COST within the parameters of explanation 10 to section 43(1), shall not be considered as income.

- ☉ Subsidies are no longer capital receipts

GOVERNMENT GRANTS RELATES

**DEPRECIABLE ASSETS-REDUCED FROM
COST OF ASSET**

**NON DEPRECIABLE ASSETS- TAXABLE AS
INCOME**

- ☉ Government Grants receivable as compensation for expenses or losses incurred in a previous financial year or for the purpose of giving immediate financial support to the person with no further related costs to be recognized as income of the period in which it is receivable.
- ☉ All other grants have to be recognized as income over the periods necessary to match them with the related costs which they are intended to compensate.
- ☉ The income is said to be received when it actually reaches the assessee. But when the right to receive the income is vested in the assessee, it is said to accrue or arise.
- ☉ A revenue receipt is taxable as income, unless it is expressly exempt under the Act. On the other hand, a capital receipt is generally exempt, unless it is expressly taxable.

AMENDMENTS**[A.Y-2017-18]**

SUBSIDY OR GRANT BY THE CENTRAL GOVERNMENT FOR THE PURPOSE OF THE CORPUS OF A TRUST OR INSTITUTION ESTABLISHED BY THE CENTRAL GOVERNMENT OR STATE GOVERNMENT, AS THE CASE MAY BE, SHALL BE ALSO NOT FORM PART OF INCOME.

RESIDENTIAL STATUS

Amendments relating to income deemed to accrue or arise in India

1. Certain activities related to diamond trading in "Special Notified zone" will not create a business connection in India [Clause (e) inserted in Explanation 1 to section 9(1)(i)] [W.r.e.f. A.Y. 2016-17]
 - A "Special Notified Zone" (SNZ) had been created to facilitate shifting of operations by foreign mining companies (FMC) to India and to permit the trading of rough diamonds in India by the leading diamond mining companies of the world. The activity of FMC of mere display of rough diamonds even with no actual sale taking place in India **may lead to creation of business connection in India of the FMC**. This potential tax exposure has been an area of concern for the mining companies willing to undertake these activities in India.
 - In order to facilitate the FMCs to undertake activity of display of uncut diamond (without any sorting or sale) in the special notified zone, the Finance Act has inserted the following clause (e) in Explanation I to section 9(1)(i) –
 - (e) in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamond in any Special Zone notified by the Central Government in the Official Gazette in this behalf.
2. Modification in the conditions to be fulfilled for being an eligible investment funds [Section 9A] [W.e.f. A.Y. 2017-18]

In order to rationalize the regime and to address the concerns of the industry, the Finance Act has modified the conditions to provide that the eligible investment fund for purposes of section 9A, shall also mean a fund established or incorporated or registered outside India in a country or a specified territory notified by the Central Government in this behalf.

It has also provided that the condition of fund not controlling and managing any **business in India or from India** shall be restricted only in the context of activities **in India**.

INCOMES EXEMPTED FROM TAX

1. Amount payable at the time of closure or opting out of National Pension Scheme to be exempt to the extent of 40% of the total amount payable [Section 10(12A) inserted] [W.e.f. A.Y. 2017-18]
2. Entire amount standing to the credit of approved superannuation fund to be exempt if it is transferred to National Pension Scheme [Sub-clause (v) inserted in section 10(13)] [W.e.f. A.Y. 2017-18]
3. Exemption in respect of interest on deposit certificates under Gold Monetization Scheme, 2015 [Section 10(15)(vi)] [W.r.e.f. A.Y. 2016-17]
4. Exemption of dividend received by a business trust from specified domestic company referred to in section 115-O(7) [Section 10(23FC)] [W.e.f. A.Y. 2017-18]
5. Distributed income which is of the same nature as dividend referred to in section 115-O(7) received from the business trust by the unit holder shall be exempt [Section 10(23FD)] [W.e.f. A.Y. 2017-18]
6. Dividend received not to be exempt in case it is chargeable to tax in accordance with the provisions of section 115BBDA [Proviso inserted under section 10(34)] [W.e.f. A.Y. 2017-18]
7. Distributed income referred to in section 115TA received by the investor from securitisation trust not to be exempt [Proviso to section 10(35A)] [W.e.f. 1-6-2016]
8. Tax Incentives to International Financial Services Centre [Section 10(38)] [Wei A.Y. 2017-18]

Under the existing provisions of section 10(38), income by way of long term capital gains arising from equity shares or units of an equity oriented fund or business trust is exempt where securities transaction tax is paid.

9. **Exemption of income of Foreign company from storage and sale of crude oil stored as part of strategic reserves [Section 10(48A)] [W.r.e.f. A.Y. 2016-17]**

10. **Exemption in respect of income arising from providing specified services on which equalisation levy is chargeable [Section 10(50)] [W.e.f. 1-6-2016]**

Any income arising from any specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 come into force **and** chargeable to **equalisation levy** under that Chapter shall be exempt.

11. **Phasing out of deduction available in respect of units established in SEZ [Section 10AA] [W.e.f. A.Y. 2017-18]**

The deduction under section 10AA shall be available only to those units which are established in a Special Economic Zone (SEZ) and begin to manufacture or produce articles or things or provide any service before 1-4-2020. In other words, any unit established in a Special Economic Zone on or after 1-4-2020 shall not be eligible for deduction under section 10AA.

INCOME FROM SALARIES (Sec 15 - 17)

1. **Raising the exemption in respect of employer's contribution to approved superannuation fund [Section 17(2)(vii)] [W.e.f. A.Y. 2017-18]**

Under section 17(2)(vii), perquisite includes the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds ₹ 1,50,000. **IN OTHER WORDS, EMPLOYER'S CONTRIBUTION TO THE APPROVED SUPERANNUATION FUND SHALL BE A TAX FREE PERQUISITE UP TO ₹ 1,50,000.**

2. Sec. 10(42): The accumulated balance due and becoming payable to an employee participating in a Recognized Provident Fund shall be exempt in case entire balance standing to credit of employee is transferred to account of the employee under a pension scheme referred to in Sec.80CCD and notified by the Central Government.

3. Sec.10(12A): Any payment from the National Pension Systems Trust to an employee on closure of account or his opting out of the pension scheme referred to in Sec.80CCD shall be exempt to the extent of 40%. However, on death of the assessee, any sum received by the nominee shall be fully exempt from tax.

INCOME UNDER THE HEAD "HOUSE PROPERTY"

A. Increase in time period for acquisition or construction of self-occupied house property for claiming deduction of interest [Second proviso to section 24(b)] [W.e.f. A.Y. 2017-18]

Deduction of an amount of ₹ 2,00,000 shall be allowed where a house property referred to in section 23(2) (self-occupied house property) has been acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is

completed within ~~3 years~~ **FIVE YEARS** from the end of the financial year in which capital was borrowed.

B. Simplification and rationalisation of provisions relating to taxation of unrealised rent and arrears of rent [Section 25A] [W.e.f. A.Y. 2017-18]

The Act has simplified these provisions and merged [~~sections 25A, 25AA and 25B~~] them under a single new section 25A to bring uniformity in tax treatment of arrears of rent and unrealised rent.

Provision for arrears of rent and unrealised rent received subsequently [Section 25A]

- ⊙ Arrears of rent or unrealized rent received subsequently to be taxed under the head "Income from House Property [Section 25A(1)]:
- ⊙ The amount of arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant, as the case may be, by an assessee shall be deemed to be the income from house property in respect of the financial year in which such rent is received or realised, and shall be included in the total income of the assessee under the head "Income from house property", whether the assessee is the owner of the property or not in that financial year.
- ⊙ Standard deduction @ 30% to be allowed from such arrears of rent or unrealized rent [Section 25A(2)]: A sum equal to 30% of the arrears of rent or the unrealised rent referred to in section 25A(1) shall be allowed as deduction.

PROFITS AND GAINS FROM BUSINESS OR PROFESSION

1. Taxation of Non-compete fees and exclusivity rights in case of Profession [Section 28(va)] [W.e.f. A.Y. 2017-18]

- ⊙ Any sum received or receivable in cash or in kind under an agreement for not carrying out activity in relation to **any business or ANY PROFESSION**,; or not to share any know how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services and is chargeable to tax as business income.
- ⊙ Further, the provisions clarify that receipts for transfer of right to manufacture, produce or process any article or thing or right to carry on any business, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession.
- ⊙ Further, the Act has also amended the proviso given under the above clause (va) to clarify that receipts for transfer of **RIGHT TO CARRY ON ANY PROFESSION**, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession.

2. Extending the benefit of additional depreciation for power sector [Section 32(1)(ia)] [W.e.f. A.Y. 2017-18]

- ⊙ An assessee engaged in the business of **generation or transmission or distribution of power** shall be allowed additional depreciation at the rate of 20% of actual cost of new machinery or plant acquired and installed in a previous year.

3. Rationalisation of scope of investment allowance [Section 32AC] [W.r.e.f. A.Y. 2016-17]

- ⊙ Investment allowance at the rate of 15% on investment made in new assets (plant and machinery) exceeding ₹ 25 crore in a previous year by a company engaged in manufacturing or production of any article or thing subject to the condition that the acquisition ~~AND~~ installation has to be done in the same previous year. This tax incentive is available up to 31.03.2017.
- ⊙ The Act has amended section 32AC(1A) so as to provide that the acquisition of the plant & machinery of exceeding ₹ 25 crore has to be made in the previous year. However, installation may be made by 31.03.2017 in order to avail the benefit of investment allowance of 15%.
- ⊙ Further, a following new proviso first has been inserted after sub-section 32AC(1A):
"Provided that where the installation of the new assets are **in a year other than the year of acquisition**, the deduction under this sub-section shall be allowed in the **year in which the new assets are installed**."

4. Amortisation of spectrum fee for purchase of spectrum [Section 35ABA] [W.e.f. A.Y. 2017-18]

Amortisation of capital expenditure incurred for acquiring any right to use spectrum for telecommunication services [Section 35ABA(1)]

Where any capital expenditure is incurred by the assessee for acquiring any right to use spectrum for telecommunication services either before the commencement of the business or thereafter at any time during any previous year and for which payment has actually been made to obtain a right to use spectrum, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

(2) Sub-sections (2) to (8) of section 35ABB also to apply to section 35ABA [Section 35ABA(2)]

5.

Deduction shall be computed = expenditure incurred for acquiring right to use spectrum/ number of relevant previous years.

6. Deduction in respect of provision for bad and doubtful debt in the case of Non-Banking Financial companies [Section 36] [W.e.f. A.Y. 2017-18]

Section 36(1)(viia) of the Act, in computing the profits of a public financial institutions, State financial corporations and State industrial investment corporations or **NON-BANKING FINANCIAL COMPANIES (NBFCs)** a deduction, limited to an amount not exceeding 5% of the gross total income, computed, before making any deduction under the aforesaid clause and Chapter VI-A, is allowed in respect of any provision for bad and doubtful debt.

In other words, Non Banking Finance Companies (NBFCs) shall also be allowed a deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of 5% of the total income.

7. Expenses incurred by the assessee towards specified services shall be disallowed if the equalization levy has not been deducted and paid [Section 40(a)(ib)] [W.e.f. 1-6-2016]

"Any consideration paid or payable to a non-resident for a specified service on which equalisation levy is deductible under the provisions of Chapter VIII of the Finance Act, 2016 shall not be allowed as deduction if such levy has not been deducted or after deduction, has not been paid on or before the due date specified in section 139(1).

However, where in respect of any such consideration, the equalisation levy has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in section 139(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such levy has been paid."

8. Extension of scope of section 43B to include certain payments made to Railways [Section 43B] [W.e.f. A.Y. 2017-18]

Section 43B of the Act, inter alia, provide that any sum payable by the assessee by way of tax, cess, duty or fee, employer contribution to Provident Fund, **ANY SUM PAYABLE BY THE ASSESSEE TO THE INDIAN RAILWAYS FOR USE OF RAILWAY ASSETS** etc., is allowable as deduction of the previous year in which the liability to pay such sum was incurred (relevant previous year) if the same is actually paid on or before the due date of furnishing of the return of income under section 139(1) irrespective of method of accounting followed by a person. [With a view to ensure the prompt payment of dues to Railways for use of the Railway assets]

9. Maintenance of accounts by certain persons [Section 44AA(2)(iv)] [W.e.f. A.Y. 2017-18]

The assessee shall **have to maintain accounts where the provisions of section 44AD(4) are applicable in his case and his income exceeds** [basic exemption limit] the maximum amount which is not chargeable to income-tax in any previous year. [~~Claiming lower income than the income prescribed u/s 44AD & during the year income BEL~~]

10. Audit of accounts of certain persons [Section 44AB] [W.e.f. A.Y. 2017-18]

In order to reduce the compliance burden, the Act has increased the threshold limit of total gross receipts, specified under section 44AB for getting accounts audited, from ₹ 25,00,000 to ₹ 50,00,000 in the case of persons carrying on profession.

Further, the following persons shall mandatorily get his books of accounts of account audited, the income exceeds the basic exemption limit.

- i. Covered under the newly inserted sec 44ADA, who declares his income from such profession lower than the deemed income [50% of gross receipt.]
- i. Covered u/s 44AD and his income exceeds the basic exemption limit shall mandatorily get his books of account audited.

11. Amendments in section 44AD relating to presumptive taxation scheme for persons having income from business [Section 44AD] [W.e.f. A.Y. 2017-18]

- Section 44AD provide for a presumptive taxation scheme for an eligible business. Where in case of an eligible assessee engaged in eligible business having total turnover or gross receipts not exceeding ~~₹ 1 crore~~ **₹ 2 CRORE.**, a sum equal to 8% of the total turnover or gross receipts, or

as the case may be, a sum higher than the aforesaid sum shall be deemed to be profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

- **Salary, remuneration, interest etc. paid to the partner as per clause (b) of section 40 not to be allowed as a deduction while computing presumptive income in case of a firm [Proviso to section 44AD(2) deleted]:** The Act has omitted the proviso to section 44AD(2) and as such the expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per clause (b) of section 40 shall not be deductible while computing the income under section 44AD as the said section 40 does not mandate for allowance of any expenditure but puts restriction on deduction of amounts, otherwise allowable under section 30 to 38.
- **AS PER SECTION 44AD(4), WHERE AN ELIGIBLE ASSESSEE DECLARES PROFIT FOR ANY PREVIOUS YEAR IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION AND HE DECLARES PROFIT FOR ANY OF THE FIVE CONSECUTIVE ASSESSMENT YEARS RELEVANT TO THE PREVIOUS YEAR SUCCEEDING SUCH PREVIOUS YEAR NOT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 44AD(1), HE SHALL NOT BE ELIGIBLE TO CLAIM THE BENEFIT OF THE PROVISIONS OF THIS SECTION FOR FIVE ASSESSMENT YEARS SUBSEQUENT TO THE ASSESSMENT YEAR RELEVANT TO THE PREVIOUS YEAR IN WHICH THE PROFIT HAS NOT BEEN DECLARED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 44AD(1).**
- For example, an eligible assessee claims to be taxed on presumptive basis under section 44AD for Assessment Year 2017-18 and offers income of ₹ 8 lakh on the turnover of ₹ 1 crore. For Assessment Year 2018-19 and Assessment Year 2019-20 also he offers income in accordance with the provisions of section 44AD. However, for Assessment Year 2020-21, he offers income of ₹ 4 lakh on turnover of ₹ 1 crore. In this case since he has not offered income in accordance with the provisions of section 44AD for five consecutive assessment years, after Assessment Year 2017-18, he will not be eligible to claim the benefit of section 44AD for next five assessment years i.e. from Assessment Year 2021-22 to 2025-26.
- As per section 44AD(5), notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee to whom the provisions of section 44AD(4) are applicable and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under section 44AA(2) and get them audited and furnish a report of such audit as required under section 44AB.
- **An assessee covered under section 44AD will now be required to pay advance tax in one instalment:** An eligible assessee in respect of an eligible business referred to in section 44AD shall be required to pay the advance tax, **TO THE EXTENT OF THE WHOLE AMOUNT OF SUCH ADVANCE TAX DURING EACH FINANCIAL YEAR ON OR BEFORE THE 15TH MARCH:** Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.

12. Presumptive taxation scheme for persons having income from profession [Section 44ADA] [W.e.f. A.Y. 2017-18]

- i. **applicability-** Resident assessee engaged in the profession referred to in section 44AA(1) can opt for presumptive income in certain cases [Section 44ADA(1)] and whose total gross receipts do not exceed ₹ 50,00,000 in a previous year, a sum equal to 50% of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee, shall be

deemed to be the profits and gains of such profession chargeable to tax under the head "Profits and gains of business or profession".

ii.

Profession referred to In section 44AA(1): Legal, medical, engineering or architectural profession, or profession of accountancy or technical consultancy or interior decoration or any other profession as Is notified by the Board in the Official Gazette. [Authorised representatives, film artists, company secretaries and profession of Information Technology have been notified for this purpose]

Consequences if the assessee opts for presumptive income scheme:

- (a) Deduction under sections 30 to 38 shall be deemed to have been allowed [Section 44ADA(2)]: Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of section 44ADA(1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.
- (b) Written down value of any asset for the succeeding year shall be computed as if the assessee has claimed deduction [Section 44ADA(3)]: The written down value of any asset used for the purposes of profession shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.
- (c) Assessee to maintain accounts and get them audited if he claims profits to be less than 50% of the gross receipts [Section 44ADA(4)]: Notwithstan-ding anything contained in the foregoing provisions of this section, an assessee who claims that his profits and gains from the profession are lower than the profits and gains specified in section 44ADA(1) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under section 44AA(1) and get them audited and furnish a report of such audit as required under section 44AB.

INCOME FROM THE HEAD "CAPITAL GAINS"

1. CII for previous year 2016-17 is 1125
2. Definition of capital asset under section 2(14) excludes Deposit Certificates issued under Gold Monetisation Scheme, 2015

[The Gold Monetization Scheme, 2015 was introduced by the Government of India w.e.f. 15-9-2015. Capital asset definition u/s 2(14) **excludes** Deposit Certificates issued under Gold Monetisation Scheme, 2015 notified by the Central Government. So transfer of such deposit certificates are exempted from capital gains tax.

3. Unlisted shares of a company to be short-term capital asset if held for not more than 24 months [Third proviso inserted under section 2(42A)] [W.e.f. A.Y. 2017-18]
If unlisted shares are transferred after 24 months from the date of its acquisition, the gain arising from the transfer of shares shall be treated as long-term capital gain.

4. Transactions not regarded as transfer [Section 47]

A. Transfer of Sovereign Gold Bond Scheme by way of redemption [Clause (viic) inserted in section 47] [W.e.f. A.Y. 2017-18]

Redemption of Sovereign Gold Bond under the Scheme, by **an individual** shall not be treated as transfer and therefore shall be exempt from tax on capital gains.

B. Rationalization of conversion of a company into Limited Liability Partnership (LLP) [Clause (ea) inserted in the proviso to Section 47(xiiib)] [W.e.f. A.Y. 2017-18]

Existing provisions of clause (xiiib) of section 47 provides that conversion of a private limited or unlisted public company into Limited Liability Partnership (LLP) shall not be regarded as transfer, if certain conditions are fulfilled, which, inter alia, include a condition that the company's gross receipts, turnover or total sales in any of the preceding three years did not exceed ₹ 60,00,000.

The Act has amended the said section so as to provide that, for availing tax-neutral conversion, in addition to the existing conditions, the total value of the assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place should not exceed ₹ 5 crore.

5. Indexation benefit to be allowed in case of long-term capital arising from the transfer of Sovereign Gold Bond [Third proviso to section 48 substituted] [W.e.f. A.Y. 2017-18]

(a) capital indexed bonds issued by the Government; or

(b) Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015.

Thus, besides capital indexed. bonds, indexation benefits to long terms capital gains arising on transfer of Sovereign Gold Bond shall also be allowed to all cases of assesseees.

6. No capital gain on currency fluctuation of Rupee Denominated Bond [Fourth proviso to section 48] [W.e.f. A.Y. 2017-18]

The Reserve Bank of India has recently permitted Indian corporates to issue rupee denominated bonds outside India as a measure to enable the Indian corporates to raise funds from outside India.

Accordingly, with a view to provide relief to non-resident investor who bears the risk of currency fluctuation, the Act has inserted a new fourth proviso to section 48 so as to provide that the capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax on capital gains.

7. Cost of acquisition of an asset declared under the Income Declaration Scheme, 2016 [Sub-section (5) inserted in section 49] [W.e.f. A.Y. 2017.18]

Where the capital gain arises from the transfer of an asset declared under the Income Declaration Scheme, 2016, and the tax, surcharge and penalty have been paid in accordance with the provisions of the Scheme on the fair market value of the asset as on the date of commencement of the Scheme, the cost of acquisition of the asset shall be **DEEMED TO BE THE FAIR MARKET VALUE OF THE ASSET WHICH HAS BEEN TAKEN INTO ACCOUNT FOR THE PURPOSES OF THE SAID SCHEME.**

8. Rationalization of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property [Section 50C] [W.e.f. A.Y. 2017-18]

The existing provisions provides that the value adopted or assessed or assessable by the Stamp valuation authority for the purpose of payment of duty shall be deemed as full value of consideration, if the actual consideration received is less than such value, for the purposes of computation of Capital Gains on transfer of a capital asset being land or building or both.

Where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of capital asset are not same, the stamp duty value assessable on the date of agreement shall be adopted. However, this benefit shall apply only when the amount of consideration or a part thereof has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of the asset.

9. Cost of acquisition and cost of improvement of right to carry on a profession If transferred [Section 55] [W.e.f. A.Y. 2017-18]

1. **Cost of acquisition:** As per the existing section 55(2)(a), cost of acquisition of goodwill of a business or a trade mark or brand name associated with business or right to manufacture, produce or process any article or things or **right to carry on any business or RIGHT TO CARRY ON PROFESSION**, tenancy rights, stage carriage permits or loom hours is as under:

- (i) in case it is acquired in any mode given under clause (i) to (iv) to section 49(1) – it will be cost to the previous owner if the previous owner paid for it but where it was self generated by the previous owner, it will be taken as nil.
- (ii) in case such asset is purchased by the assessee – it means the amount of purchase price.
- (iii) in any other case – it shall be taken as nil as it will be self generated.

2. **Cost of improvement:** As per the existing section 55(1)(b), cost of improvement:

- (i) In relation to a capital asset being goodwill of a business or "PROFESSION" or a right to manufacture, produce or process any article or thing or right to carry on any business shall always be nil.

It makes no difference whether goodwill or such right was self generated or acquired for a price.

10. Sec. 54EE: Subject to the following conditions, exemption is provided for any assessee deriving long-term capital gains on transfer of any long term capital asset:

- (1) The amount of capital gains should have been invested in long term specified assets (unit or units issued before 01.04.2019 of such notified fund) within a period of 6 months from the date of transfer.
- (2) Assessee shall not transfer or avail loan or advance on security of such long term specified asset within a period of 3 years from the date of its acquisition.
- (3) The maximum amount of investment made during the financial year in which transfer is made and in the subsequent financial year does not exceed Rs. 50 Lakhs.
- (4) Quantum of exemption: Amount of investment in long term specified assets or capital gains, whichever is lower.

11. Exemption of long-term capital gain tax on transfer residential property shall also be allowed if the net consideration is invested in eligible start up [Section 54GB] [W.e.f. A.Y. 2017-18]

In order to provide relief to an Individual and HUF, who are willing to **setup a startup company** by selling a residential property (before 01.04.2019) to invest in the shares of such company, Sec. 54GB has been amended to provide that long term capital gains on transfer of residential property shall be exempt proportionate to the net consideration so invested in subscription of shares of a company which qualifies to be an eligible start-up. The other conditions are:

- (1) Such individual or HUF to hold more than 50% of shares of the company;
- (2) Such company utilizes the amount invested in share capital to purchase new asset before the due date for filing of return by the investor.
- (3) Further, if the startup happens to be a technology driven startup, the 'new asset' on which investment is made shall include computers or computer software also.

"Eligible business" means a business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property;

"Eligible start-up" means a company or a LLP engaged in eligible business which fulfils the following conditions, namely:-

- (a) it is incorporated on or after 01.04.2016 but before the 01.04.2019;
- (b) the total turnover of its business does not exceed Rs. 25 crores in any of the previous years beginning on or after 01.04.2016 and ending on 31.03.2021; and
- (c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified by the Central Government.

12. Benefit of section 111A allowed to International Financial Service Centre even if the transaction of sale is not subject to securities transaction tax [Second proviso inserted under section 111A(1)] [W.e.f. A.Y. 2017-18]

This section has been amended to extend the concessional tax treatment to the short term capital gains arising from a transaction undertaken in the foreign currency on a recognized stock exchange located in an International Financial Services Centre (**EVEN IF SECURITIES TRANSACTION TAX IS NOT PAID**). In other words, the short term capital gains arising from a transaction undertaken in the foreign currency on a recognized stock exchange located in an International Financial Services Centre shall be taxable at 15%, even if securities transaction tax is not applicable.

13. Clarification regarding the definition of the term 'unlisted securities' [Section 112(1)(c)] [W.e.f. A.Y. 2017-18]

Sec.112: This section provides the tax rate of 10% for long term capital gains arising from transfer of unlisted securities in the hands of a non-resident/ foreign company. It was expressly set out in the section that the expression "securities" shall have the same meaning as in Sec. 2 (h) of the Securities Contracts (Regulations) Act. This section has been amended to provide that the long term capital gains arising from the transfer of a capital asset being shares in a company in which the public are not substantially interested shall be taxable on par with unlisted securities.

INCOME FROM THE HEAD OTHER SOURCES

1. Rationalization of section 56 of the Income-tax Act [Section 56(2)(vii)] [W.e.f. A.Y. 2017-18]

Any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of section 56(2)(vii).

SET OFF OR CARRY FORWARD OF LOSS

1. Carry forward and set off of loss under section 73A of the Income-tax Act to be allowed only if the return of such loss is filed as per section 139(3) before the due date specified under section 139(1) [Section 80] [W.r.e.f. A.Y. 2016-17]

In accordance with the scheme of the Act, any specified business referred to in section 35AD to be allowed if the return is filed within the specified time i.e. by the due date of filing of the return of the income as provided in section 80 for other losses determined under the Act.

2. Sec 115BBE- Income relating to sec 68 to 69D is taxable at the rate of 30% and further provides that no deduction is allowed. **SET OFF OF ANY LOSS SHALL NOT BE ALLOWABLE IN RESPECT OF INCOME U/S 68 TO 69D.**

DEDUCTIONS FROM GROSS TOTAL INCOME (80A to 80U)

1. Lump sum amount received by the nominee on account of closure or opting out of pension scheme on the death of the assessee to be exempt [Section 80CCD] [W.e.f. A.Y. 2017-18]

where any amount is received from the pension scheme by the assessee or ~~his nominee~~ in whole or in part, in any previous year, –

- (a) on account of closure or his opting out of the pension scheme referred to in section 80CCD(I) or (1B); or
- (b) as pension received from the annuity plan purchased or taken on such closure or opting out,

Provided that the amount received by the nominee, on the death of the assessee, under the circumstances referred to in **clause (a) above**, shall not be deemed to be the income of the nominee.

However, pension received by the nominee from the annuity plan purchased or taken on such closure or opting out shall be taxable.

2. Deduction in respect of interest on loan taken for residential house property [Section 80EE] [W.e.f. A.Y. 2017-18]

An individual shall be allowed a deduction under section 80EE on account of interest payable on loan taken by him from any **financial institution** for the purpose of acquisition of a residential property subject to the following conditions being satisfied:

1. the loan has been sanctioned by the financial institution during the period beginning on 1-4-2016 and ending on 31-3-2017;
2. the amount of loan sanctioned for acquisition of the residential house property does not exceed ₹ 35,00,000;
3. the value of residential house property does not exceed ₹ 50,00,000;
4. the assessee does not own any residential house property on the date of sanction of loan.

where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.

Quantum of deduction: The deduction under section 80EE(1) shall not exceed ₹ 50,000 and shall be allowed in computing the total income of the individual for the assessment year beginning on 1-4-2017 and subsequent assessment years.

1. The deduction under this section is over and above the limit of ₹ 2,00,000 provided for a self-occupied property under section 24 of the Act.

3. Rationalization of limit of deduction allowable in respect of rents paid [Section 80GG] [W.e.f. A.Y. 2017-18]

The deduction is allowed subject to the minimum of the following amounts:

- (i) Excess of rent paid over 10% of 'Adjusted Total Income';
- (ii) 25% of the "Adjusted Total Income";
- (iii) ₹ ~~2,000~~ 5,000 PER MONTH.

4. Special provision in respect of eligible business of eligible start up [Section 80-1AC] [W.e.f. A.Y. 2017-18]

(1) 100% deduction of profit from eligible business [Section 80-IAC(1) and (2)]:

Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to 100% of the profits and gains derived from such business for any 3 consecutive assessment years out of 5 years beginning from the year in which the eligible start up is incorporated, provided the conditions mentioned in section 80-IAC(3) below are satisfied.

(2) Conditions to be satisfied to claim exemption under section 80-IAC(1) [Section 80-IAC(3)]:

This section applies to a start-up which fulfils the following conditions, namely: —

- (i) it is not formed by splitting up, or the reconstruction, of a business already in existence:
Provided that this condition shall not apply in respect of a start-up which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in that section;
- (ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation 1.—For the purposes of clause (h) above, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely: —

- (a) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;
- (b) such machinery or plant is imported into India;
- (c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee

Explanation 2.—Where in the case of a start-up, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed 20% of the total value of the machinery or plant used in the business, then, for the purposes of clause (ir) of this sub-section, the condition specified therein shall be deemed to have been complied with.

(3) Further conditions applicable for an assessee claiming deduction under section 80-IAC [Section 80-IAC(4)]: The provisions contained in section 80-IA(5) and 80-IA(7) to (12) shall, so far as may be, apply to the eligible business under this section. These provisions relate to the following:—

- (i) Computation of profits of eligible business [Section 80-IA(5)]
- (ii) Audit of accounts [Section 80-IA(7)]
- (iii) Inter-unit transfer of goods [Section 80-IA(8)]
- (iv) Restriction on double deduction [Section 80-IA(9)]
- (v) Restriction on excessive profits [Section 80-IA(10)]
- (vi) Power of Central Government to notify undertakings to which section 80-IB will not apply [Section 80-IA(11)]

Explanation.—For the purposes of this section,—

- (i) "eligible business" means a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property;
 - (ii) "eligible start-up" means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:—
 - (a) it is incorporated on or after 1-4-2016 but before 1-4-2019;
 - (b) the total turnover of its business does not exceed ₹ 25 crore in any of the previous years beginning on or after 1-4-2016 and ending on 31-3-2021; and
 - (c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.
- "limited liability partnership" means a partnership referred to in section 2(1)(n) of the Limited Liability Partnership Act, 2008

5. Deduction in respect of profits and gains from housing projects [Section 80-IBA] [W.e.f. A.Y. 2017-18]

(1) 100% deduction of profit from housing projects [Section 80-IBA(1)]: Where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to the provisions of this section, be allowed, a

deduction of an amount equal to 100% of the profits and gains derived from such business provided the project fulfils the conditions mentioned in section 80-IBA(2).

(2) Conditions to be fulfilled [Section 80-IBA(2)]: For the purposes of section 80- IBA(1), a housing project shall be a project which fulfils the following conditions, namely: –

(a) the project is approved by the competent authority after 1-6-2016, but on or before 31-3-2019; (b) the project is completed within a period of 3 years from the date of approval by the competent authority:

- (i) where the approval in respect of a housing project is obtained more than once, the project shall be deemed to have been approved on the date on which the building plan of such housing project was first approved by the competent authority; and
- (ii) the project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority.

(c) the built-up area of the shops and other commercial establishments included in the housing project does not exceed 3% of the aggregate built-up area;

(d) the project is on a plot of land measuring not less than –

- (i) 1000 square metres where such project is located within the cities of Chennai, Delhi. Kolkata or Mumbai or within the distance measured aerially of 25 kilometres from the municipal limits of these cities, or
- (ii) 2000 square metres where the project is located in any other place:

(da) the project is the only housing project on the plot of land as specified in clause (d) above:

(e) the built-up area of the residential unit comprised in the housing project does not exceed –

- (i) 30 square metres where such project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the distance measured aerially of 25 kilometres from the municipal limits of these cities, or
- (ii) 60 square metres, where the project is located in any other place;

(f) where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual;

(g) the project utilises –

- (i) not less than 90% of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the distance measured aerially of 25 kilometres from the municipal limits of these cities, or
- (ii) not less than 80% of such floor area ratio where such project is located in any place other than the place referred to in sub-clause (i); and

(h) the assessee maintains separate books of account in respect of the housing project.

Nothing contained in this section shall apply to any assessee who executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government). [Section 80-IBA(3)]

(3) Consequences if the project is not completed within a period of 3 years from the date of approval [Section 80-IBA(4)]: Where the housing project is not completed within the period specified under section 80-IBA(2)(b) (i.e. 3 years) and in respect of which a deduction has been claimed and allowed under this section, the total amount of deduction so claimed and allowed in one or more previous years, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the period for completion so expires.

(4) Deduction under any other provisions of the Act not allowed if the same is claimed under this section [Section 80-IBA(5)]: Where any amount of profits and gains derived from the business of developing and building housing projects is claimed and allowed under this section for any assessment year, deduction to the extent of such profit and gains shall not be allowed under any other provisions of this Act.

6. Deduction in respect of employment of new employees [Section 80JJAA] [W.e.f. A.Y. 2017-18]

ELIGIBLE ASSESSEE- The assessee has profit & gains from business & is subject to audit under section 44AB.

(1) 30% of additional employee cost to be allowed as deduction for 3 assessment years [Section 80JJAA(1)]: Where the gross total income of an assessee **to whom section 44AB applies**, includes any profits and gains derived from business, there shall, subject to the conditions specified in section 80JJAA(2), be allowed a deduction of an amount equal to 30% of **additional employee cost** incurred in the course of such business in the previous year, for 3 assessment years including the assessment year relevant to the previous year in which such employment is provided.

(2) Essential conditions [Section 80JJAA(2)]: No deduction under section 80JJAA(1) shall be allowed, —

(a) if the business is formed by splitting up, or the reconstruction, of an existing business:

However, nothing contained in this clause shall apply in respect of a business which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business in the circumstances and within the period specified in section 33B;

(b) if the business is acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation;

(c) unless the assessee furnishes alongwith the return of income the report of a chartered accountant giving such particulars in the report as may be prescribed.

Explanation. — For the purposes of this section, —

(1) Additional employee cost: "Additional employee cost" means total emoluments paid or payable to **additional employees** employed during the previous year.

Provided that in the case of an existing business, **the additional employee cost shall be nil**, if —

(a) there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;

(b) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account: **Provided further that in the first year of a new business, emoluments paid or payable to employees**

employed during that previous year shall be deemed to be the additional employee cost;

(2) **Additional employee:** "Additional employee" means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year. but does not include,—

- (a) an employee whose total **emoluments** are more than ₹ 25,000 p m.; or
- (b) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act. 1952; or
- (c) an employee employed for a period of less than 240 days during the previous year; Or
- (d) an employee who does not participate in the recognised provident fund;

(3) **Emoluments:** "Emoluments" means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include—

- (a) any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and
- (b) any lump-sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

(3) **Applicability of availing benefit under the old section 80JJA:** The provisions of this section, as they stood immediately prior to their amendment by the Finance Act, 2016, shall apply to an assessee eligible to claim any deduction for any assessment year commencing on or before 1-4-2016.

ASSESSMENT OF NON RESIDENT

1. Tax on Income from 'Patents' [Section 115BBF] [W.e.f. A.Y. 2017-18]

(1) **Income by way of royalty in respect of the patent to be tax at the special rate of 10% [Section 115BBF(1)]:** Where the total income of an **eligible assessee** includes any income by way of royalty in respect of a **patent developed and registered in India**, the income-tax payable shall be the aggregate of—

- (a) the amount of income-tax calculated on the income by way of royalty in respect of the patent @ 10%; and
- (b) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the income referred to in clause (a).

(2) **No deduction to be allowed from such royalty [Section 115BBF(2)]:**

Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the eligible assessee under any provision of this Act in computing his income referred to in section 115BBF(1)(a).

(3) Option to be taxed in accordance with the provisions of this section to be exercised before the due date specified in section 139(1) [Section 115BBF(3)]: The eligible assessee may exercise the option for taxation of income by way of royalty in respect of a patent developed and registered in India in accordance with the provisions of this section, in the prescribed manner, on or before the due date specified under section 139(1) for furnishing the return of income for the relevant previous year.

(4) Assessee not eligible to claim benefit under this section for next 5 assessment years if he does not avail the benefit of this section for subsequent 5 assessment years after opting for taxation under this section [Section 11511BF(4)]

ASSESSMENT OF COMPANIES

☉ DOMESTIC COMPANY WHOSE TOTAL TURNOVER OR GROSS RECEIPT IN THE PREVIOUS YEAR DOES NOT EXCEED ₹ 5 CRORES- 29%.

SPECIAL RATES OF INCOME TAX IN CASE OF NEWLY SETUP DOMESTIC COMPANIES ENGAGED SOLELY IN THE BUSINESS OF MANUFACTURE OR PRODUCTION OF ARTICLE OR THING [SEC 115BA]-25%.

1. Tax on income of certain domestic companies [Section 115BA] [W.e.f. A.Y. 2017-18]

(1) Certain domestic companies given option to be taxed at the special rate of 25% [Section 115BA(1)]: Notwithstanding anything contained in this Act but subject to the provisions of section 111A and section 112. the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after 1-4-2017, shall, at the option of such person, be computed @ 25%, if the conditions specified in section 115BA(2) are satisfied.

(2) Specified conditions for opting provisions of section 115BA(1) [Section 115BA(2)]

- (a) the company has been set-up and registered on or after 1-3-2016;
- (b) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it; and
- (c) the total income of the company has been **computed**, –
 - (i) **without any deduction** under the provisions of
 - _ section 10AA (relating to special economic zone), or
 - _ benefit of accelerated depreciation/additional depreciation under section 32(1)(ia), or
 - _ benefit of investment allowance under section 32AC or under section 32AD, or
 - _ deduction under section 33AB (tea/coffee/rubber development account), or
 - _ section 33ABA (site restoration fund), or
 - _ section 35(1)(ii), (ia), (iii), section 35(2AA), section 35(2AB) (relating to scientific research/social research), or
 - _ section 35AC (expenditure on eligible projects and scheme), or section
 - _ 35AD (deduction on account of capital expenditure on specified business), or
 - _ section 35CCC (agricultural extension project), or
 - _ section 35CCD (skill development project), or
 - _ any provisions of Chapter VI-A under the heading "C. – Deductions in respect of certain incomes" other than the provisions of section 80JJA;

- (ii) without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred to in sub-clause (i) of clause (c); and
- (iii) depreciation under section 32, other than additional depreciation under section 32(1)(ia), is determined in the manner as may be prescribed.

The loss referred to in section 115BA(2)(c)(it) shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year. [Section 115BA(3)].

(4) Section not to apply unless the option is exercised in the prescribed manner on or before due date specified under section 139(1) [Section 115BA(4)]

2. Tax on certain dividends received from domestic companies [Section 115BBDA] [W.e.f. A.Y. 2017-18]

(1) Dividend in aggregate exceeding ₹ 10,00,000 received by certain persons to be taxed at the special rate of 10% [Section 115BBDA(1)]: Notwithstanding anything contained in this Act, where the total income of an assessee, **being an individual, Hindu undivided family or a firm, resident in India**, includes any income in aggregate exceeding ₹ 10,00,000, by way of dividends declared, distributed or paid by a domestic company, the income-tax payable shall be the aggregate of—

- (a) the amount of income-tax calculated on the income by way of such dividends in aggregate exceeding ₹ 10,00,000, @ 10%; and
- (b) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of income by way of dividends.

(2) No deduction to be allowed from dividend taxable at special rate under section 115BBDA(1) [Section 115BBDA(2)]: No deduction in respect of any expenditure or allowance or set off of loss shall be allowed to the assessee under any provision of this Act in computing the income by way of dividends referred to in section 115BBDA(1)(a).

It may be noted that a shareholder who is an individual or HUF or a firm, resident in India shall be liable to pay tax at the special rate of 10% on the amount of dividend if his total income includes dividend received from domestic companies after claiming exemption of ₹ 10,00,000 u/s 10(34). However, in case of any other assessee, the entire amount of dividend received shall be exempt u/s 10(34).

3. Exemption from Dividend Distribution Tax (DDT) on distribution made by a SPV to Business Trust [Section 115-O(7) inserted] [W.e.f. 1-6-2016]

- No tax on distributed profits shall be chargeable under this section in respect of any amount declared, distributed or paid **by the specified domestic company** by way of dividends (whether interim or otherwise) to a business trust out of its **current income** on or after the specified date:
- In other words, the exemption from the levy of DDT would only be in respect of dividends paid out of current income after the date when the business trust acquires the shareholding in the specified domestic company. The dividends paid out of accumulated and current profits upto this date shall be liable for levy of DDT as and when any dividend out of these profits is distributed by the company either to the business trust or any other shareholder.

4. Consequential amendments due to insertion of section 115-O(7)

(1) Dividend referred to in section 115-O(7) received by the business trust shall be exempt under section 10(23FC)(b).

(2) Dividend referred to in section 115-O(7) received by a unitholder from the business trust shall also be exempt under section 10(23FD).

5. No dividend distribution tax in case of a company being a unit of an International Financial Services Centre deriving income solely in convertible foreign exchange [Section 115-O(8) inserted]

Notwithstanding, anything contained in this section, no tax on distributed profits shall be chargeable in respect of the total income of a company, being a unit of an International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after 1.4.2017, out of its **current income**, either **in the hands of the company or the person receiving such dividend**.

Explanation. – For the purposes of this sub-section, –

(a) "International Financial Services Centre" shall have the same meaning as assigned to it in section 2(q) of the Special Economic Zones Act, 2005. See also para 66.

6. Tax on distributed income to shareholder [Section 115QA] [W.e.f. 1-6-2016]

- Section 115QA to provide that the provisions of this section shall apply to any buy back of unlisted share undertaken by the company **in accordance with the provisions of the law relating to the Companies and not necessarily restricted to section 77A of the Companies Act, 1956**.
- It is further provided that for the purpose of computing distributed income, the amount received by the Company in respect of the shares being bought back shall be determined **in the prescribed manner**. The rules would thereafter be framed to provide for manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganizations and in different tranches.

7. Non-applicability of Minimum Alternate Tax (MAT) on foreign companies for the period prior to 1.4.2015 in certain cases [New Explanation 4 inserted under section 115JB(2)] [W.r.e.f. A.Y. 2001-02]

8. No MAT on income by way of royalty in respect of patent chargeable to tax u/s 115BBF [Explanation 1 to section 115JB(2) amended] [W.e.f. A.Y. 2017-18]

9. Rate of MAT in case of International Financial Services Centre shall be 9% instead of 18.5% [Section 115JB] [W.e.f. A.Y. 2017-18]

TAX DEDUCTED AT SOURCE**1. Rationalization of provisions relating to tax deduction at source (TDS) [W.e.f. 1-6-2016]**

Under the scheme of deduction of tax at source as provided in the Act, every person responsible for payment of any specified sum to any person is required to deduct tax at source at the prescribed rate and deposit it with the Central Government within specified time. However, no deduction is required to be made if the payments do not exceed prescribed threshold limit.

Table A

Increase/decrease in threshold limit of deduction of tax at source on various payments mentioned in the relevant sections of the Act

Present Section	Heads	Existing Threshold Limit (₹)	New Threshold Limit w.e.f. 1-6-2016 (₹)
192A 194BB	Payment of accumulated balance due to an employee Winnings from Horse Race	30,000 5,000	50,000 10,000
194C 194LA 194D 194G 194H	Payments to Contractors Payment of Compensation on acquisition of certain Immovable Property Insurance commission Commission on sale of lottery tickets Commission or brokerage	Aggregate annual limit of 75,000 2,00,000 20,000 1,000 5,000	Aggregate annual value of 1,00,000 2,50,000 15,000 15,000 15,000

Table B

Revision in rates of deduction of tax at source on various payments mentioned in the relevant sections of the Act

Present Section	Heads	Existing Rate of TDS	New Rate of TDS w.e.f. 1-6-2016
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payments in respect of NSS Deposits	20%	10%
194D	Insurance commission	Rate in force i.e. 10%	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

ii. **Amendment in section 194LBB relating to deduction of tax at source on income in respect of units of investment fund [W.e.f. 1-6-2016]**

PAYEE	UP TO 31-05-2016	W.E.F 01-06-2016
RESIDENT	10% for all unit holders	10% [where the payee has not furnished PAN, tax @ 20% shall be deducted]
NON RESIDENT NOT BEING A FOREIGN COMPANY	10% for all unit holders	30% [plus surcharge & education cess]

FOREIGN COMPANY	10% for all unit holders	30% [plus surcharge & education cess]
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v. **TDS from income in respect of investment in securitisation trust [Section 194LBC]**

Where any income is payable to an investor in respect of an investment in a securitisation trust [Section 115TCA], the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, at the rate of –

PAYEE	RATE OF TDS
Resident individual or HUF	25%
Resident individual or HUF	30%
Non resident, not being a foreign company	30% [plus surcharge & education cess]
Foreign company	40% [plus surcharge & education cess]

v. **Amendment of section 197 relating to obtaining of certificate for deduction of tax at lower rate of nil rate [Section 197] [W.e.f. 1-6-2016]**

The assessee shall also be eligible to **OBTAIN CERTIFICATE FOR DEDUCTION AT LOWER RATE OR NIL RATE IN CASE OF SECTION 194LBB AND SECTION 194LBC.** [Like other sections specified under section 197]

vi. **Enabling of Filing of Form 15G/15H for rental payments [sec 194 I] also [Section 197A] [1-6-2016]**

In order to reduce compliance burden in case of rental payment, the Act has amended the provisions of section 197A for making the recipients of payments referred to in **SECTION 194-1 (RELATING TO RENT)** also eligible for filing self-declaration in Form no 15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

vii. **Exemption from requirement of furnishing PAN under section 206AA to certain non-resident [Section 206AA] [W.e.f. 1-6-2016]**

In order to reduce compliance burden of furnishing PAN, the Act has inserted sub-section (7) in section 206AA to provide as under:

"The provisions of section 206AA shall not apply to a non-resident, not being a company, or to a foreign company, in respect of –

- (i) payment of interest on long-term bonds as referred to in section 194LC; and
- (ii) any other payment subject to such conditions as may be prescribed.

Note- furnishing of PAN is not mandatory in respect of payment of interest to non-resident [other than company] or foreign company on long term bonds as referred to in sec 194LC and other payments subject to such conditions as may be prescribed.

1. **Tax to be collected at source (TCS) in case of sale in cash of any goods (other than bullion and jewellery) or providing of service exceeding ₹2,00,000 [Section 206C(1D)] [W.e.f. 1-6-2016]**

The seller who receives any amount in cash in consideration for sale of any other goods (other than bullion and jewellery) or any service shall at the time of receipt of such amount in cash, collect from the buyer a sum equal to 1% of sale consideration if such consideration for any goods (other than bullion and jewellery), or any service, exceeds ₹ 2,00,000.

2. Tax to be collected at source (TCS) in case of motor vehicle, value exceeding ₹10,00,000 [section 206C] [W.e.f.1-6-2016]

Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ₹ 10,00,000, shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 1% of the sale consideration as income-tax.

Note- Tax Collection at Source (TCS) on sale of vehicles; goods or services [Section 206C]

- ⊙ The existing provision of section 206C of the Act, inter alia, provides that the seller shall collect tax at source at specified rate from the buyer at the time of sale of specified items such as alcoholic liquor for human consumption, tendu leaves, scrap, mineral being coal or lignite or iron ore, bullion etc. in cash exceeding ₹ 2,00,000.
- ⊙ In order to reduce the quantum of cash transaction in sale of any goods and services and for curbing the flow of unaccounted money in the trading system and to bring high value transactions within the tax net, the Act has made the following amendments in section 206C:

ASSESSMENT PROCEDURES

1. SEC.139(1): FILING OF RETURN [W.e.f. A.Y. 2017-18]:

Filing of return of income: Sec. 139(1) provides that every person, being an individual or HUF or AOP or BOI (whether incorporated or not) or Artificial Judicial Person, shall furnish return of income on or before due date, if his total income or total income of any other person in respect of which he is assessable to tax during the previous year, before giving effect to Chapter VI-A deductions exceeds basic exemption limit & **THE PROVISIONS OF SEC. 10(38)** [any long term capital gains on transfer of listed shares as per Sec. 10(38)] **ALSO**.

2. Section 139(3) relating to return of loss amended [W.e.f. A.Y. 2016-17]: The Act has inserted section 73A(2) in section 139(3) so as to provide that loss of the **SPECIFIED BUSINESS REFERRED TO IN SECTION 35AD CAN BE CARRIED FORWARD AND SET OFF IN THE SUBSEQUENT ASSESSMENT YEAR ONLY IF THE RETURN OF LOSS IS FILED ON OR BEFORE THE DUE DATE SPECIFIED UNDER SECTION 139(1).**

3. Section 139(4) relating to late return [W.e.f. A.Y. 2017-18]-

"Any person who has not furnished a return within the time allowed to him under section 139(1), may furnish the return for any previous year at any time **BEFORE THE END OF THE RELEVANT ASSESSMENT YEAR OR BEFORE THE COMPLETION OF THE ASSESSMENT, whichever is earlier.**

4. Section 139(5) relating to Revised Return [W.e.f. A.Y. 2017-18]-

"If any person, having furnished a return **under section 139(1) or section 139(4)**, discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier."

5. Section 139(9) relating to Defective Return [W.e.f. A.Y. 2017-18]-

The Act has omitted clause (aa) of the Explanation to sub-section (9) of aforesaid section to provide that a return which is otherwise valid would *not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return.*

6. Amendments in section 143(1) relating to processing of income tax return Scope of clause (a) of section 143(1) relating to making adjustments while processing the return of income enlarged [Section 143(1)(a)] [W.e.f. A.Y. 2017-18]

Under the existing section 143(1)(a), while processing the return of income, the total income or loss is computed after making the following adjustments, namely: –

- i. any arithmetical error in the return; or
- ii. an incorrect claim, if such incorrect claim is apparent from any information in the return.
- a) disallowance of **LOSS** claimed, if return of the previous year for which set off of loss is claimed was furnished **BEYOND THE DUE DATE** specified under section 139(1);
- b) disallowance of expenditure indicated in the **AUDIT REPORT BUT NOT TAKEN INTO ACCOUNT** in computing the total income in the return;
- c) disallowance of **DEDUCTION** claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80IE, if the return is furnished **BEYOND THE DUE DATE SPECIFIED UNDER SECTION 139(1); OR**
- d) addition of **INCOME** appearing in **FORM 26AS OR FORM 16A OR FORM 16 WHICH HAS NOT BEEN INCLUDED IN COMPUTING THE TOTAL INCOME IN THE RETURN:**

It is also provided that no adjustment shall be made before giving an opportunity of being heard to the assessee in this regard. The responses received from the assessee shall be considered before making the above adjustments. In case no response is received from the assessee within 30 days of the intimation, such adjustments indicated in the intimation shall be made.

7. Existing sub-section (1D) of section 143 substituted by new sub-section (1D) [W.e.f. A.Y. 2017-18]

~~Under the existing provisions of Sec. 143(1D), processing of returns u/s. 143(1)(a) is not necessary where a scrutiny notice has been issued u/s. 143(2).~~ **PROCESSING OF RETURNS SHALL NOT BE NECESSARY BEFORE THE EXPIRY OF ONE YEAR FROM THE END OF THE FINANCIAL YEAR IN WHICH RETURN IS SUBMITTED.** However the return shall be processed u/s. 143(1) before making an assessment Sec. 143(3).

Explanation 2 to section 147 amended [W.e.f. 1-6-2016]

8. Rationalisation of time limit for completion of assessment, reassessment and recomputation [Section 153] [W.e.f. 1-6-2016]

Time limit for completion of all assessments and reassessment [Section 153] [W.e.f. 1-6-2016]

The new section 153 prescribes time limit for completion of various assessments and reassessment which is as follows:

SI. No.	Relevant sections	Time limit for completion
1	Assessment u/s 143/144 [Section 153(1)]	21 months from the end of relevant assessment year in which the income was first assessable
2	Assessment/Re- assessment u/s 147 [Section 153(2)]	9 months from the end of the Financial Year in which the notice u/s 148 was served on the assessee.
3	Fresh assessment where original assessment of income has been set aside or cancelled by Appellate Authority u/s 254, or by CIT u/s 263 or 264 [Section 153(3)]	9 months from the end of the Financial Year in which: such order of set aside or canceling the order passed by the appellate authority u/s 254 was received by the CIT, or order u/s 263 or 264 was passed by the CIT, as the case may be.
4	Time limit for completion of assessment/reassessment/fresh assessment in case the reference is made to TPO under section 92CA(1) [Section 153(4)]	The period available for completion of assessment or reassessment, as the case may be, under sections 153(1), (2) and (3) mentioned in Si. No. 1 to 3 above shall be extended by 12 months (i.e. it will be 33 months, 21 months and 21 months respectively)
5	Time limit for giving effect, otherwise than by making a fresh assessment or reassessment , to the order of appeal under section 250 or section 254 or section 260 or section 262 or revision under section 263 or section 264 [Section 153(5)]	3 months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, or 3 months from the end of the month in which the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner: However, where it is not possible for the Assessing Officer to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such request in writing from the Assessing Officer, if satisfied, may allow an additional period of 6 months to give effect to the order.
6	Cases where time limit specified in section 153(1) and (2) is not applicable [Section 153(6)] Case (i) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any	Subject to the provisions of section 153(3) and (5), it will be completed – on or before the expiry of 12 months from the end of the month in which

	finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act Case (ii) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147,	such order is received or passed by the Principal Commissioner or Commissioner, as the case may be; or on or before the expiry of 12 months from the end of the month in which the assessment order in the case of the firm is passed.
7	Time limit to give effect to any order/finding/direction referred to in section 153(5) or 153(6) is received or passed by the Income Tax Authority before 1-6-2016 [Section 153(7)]	The Assessing Officer shall give effect to such order, finding or direction, or assess, reassess or recompute the income of the assessee, on or before 31-3-2017 .

Rationalisation of time limit for assessment in search cases [Sections 153A, Section 153C] [W.e.f. 1-6-2016]

The Act has also amended the time limit for completion of assessments made under section 153A or section 153C cases to bring it in sync with the new time limits provided for other cases. In order to simplify the provisions of existing section 153B by retaining only those provisions that are relevant to the current provisions of the Act, the existing section 153B has been substituted with the following:

9. Time limit for completion of assessment under section 153A [Section 153B(1)]

(1) Time limit for completion of six assessment years [Section 153B(1)(a)]: The Assessing Officer shall make an order of assessment or reassessment, in respect of each assessment year falling within six assessment years referred to in section 153A(1)(b), within a period of 21 months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed;

(2) Time limit for completion of assessment year relevant to the previous year in which search is conducted or requisition is made [Section 153B(1)(b)]: In respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, the Assessing Officer shall make an order of assessment within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed:

In case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed and during the course of the proceedings for the assessment or reassessment of total income, a reference under section 92CA(1) is made, the provisions of section 153B(1)(a) or section 153B(1)(b) shall have effect as if for the words "21 months", the words "33 months" had been substituted. [Second proviso to section 153B(1)]

(3) Time limit for completion of assessment of other persons referred to in section 153C [First and third proviso to section 153B(1)]

In case of such other person, the time limit for making assessment or reassessment of total income of the assessment years referred to in section 153B(1)(a) i.e. block period of six assessment years and section 153B(b) i.e. assessment year of search of the said sub-section, shall be the either:

(a) 21 months (33 months, in case a reference is made u/s 92CA(1) to TPO) from the end of the financial year in which the last of authorisations for search under section 132 or for requisition under section 132A was executed; or

(b) 9 months and year (21 months, in case a reference is made u/s 92CA(1) to TPO) from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person,

whichever is later.

AMENDMENT RELATING TO ADVANCE TAX

A. Rationalisation of advance tax payment [Section 211(1) substituted] [W.e.f. 1-6-2016]

Instalment of advance tax and due dates [Section 211(1)]: Advance tax on the current income calculated in the manner laid down in section 209 shall be-payable by –

(a) all the assessees, of or than the assessee referred to in clause (b) below, who are liable to pay the same, in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in the Table below:

Due date of Instalment	Amount Payable
On or before the 15th June	Not less than 15% of such advance tax.
On or before the 15th September	Not less than 45% of such advance tax. as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than 75% of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments;

- ⊙ **An eligible assessee in respect of an eligible business referred to in section 44AD, to the extent of the whole amount of such advance tax during each financial year on or before the 15th March.**
- ⊙ Provided that any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.
- ⊙ Consequential amendments have been made in section 234C which provides for chargeability of interest for deferment of advance tax to bring it in sync with the amendments proposed in section 211.

TRANSFER PRICING

1. Sec. 92BA : Specified domestic transaction in the case of an assessee, means any transactions referred under the section 40A(2)(b), 80A, 80-IA(8), 80-IA(10), 80-IAB, 80-IB, 80-IC, 80-ID, 80-IE, 10AA and from AY 2017-18, it also includes section 80-IAC of Income-tax Act, 1961, not being an international transaction.

2. Sec. 92CA: Reference to Transfer pricing officer: The Transfer pricing officer may make his order at any time before the expiry of 60 days prior to the date on which the period of limitation referred to in Sec. 153 or Sec. 153B for completion of assessment or reassessment expires.
- ☉ Where the period of limitation available to the TPO for making an order is less than 60 days, such remaining period shall be extended to 60 days and the aforesaid period of limitation shall be deemed to have been extended accordingly in the following cases:
- Where the assessment proceeding is stayed by an order or injunction of any court;
 - Where a reference for exchange of information is made by the competent authority under an agreement referred to in Sec. 90 or Sec. 90A and ending with the date on which the information requested is last received by the principal commissioner or commissioner or a period of one year which ever is less.
3. **Maintenance, keeping of information and document of an international group by a constituent entity [Proviso to section 92D(1) inserted] [W.e.f. A.Y. 2017-18]**
According to Rule 10D(2A), business of supply, transmission or wheeling of electricity by a Government company engaged in the business of generation, supply, transmission or distribution of electricity, in respect of specified domestic transaction shall maintain documents as per clause (i) of Rule 10THA of Income Tax Rules.
4. Sec 286- Every constituent entity in India, shall if it is constituent of an international group, the parent entity of which is not in India, should furnish the details required and also furnish a report along with ROI filed U/S 139(1) in every accounting year in the form and manner prescribed.

APPEALS & REVISIONS

1. **Second proviso inserted under clause (b) of section 249(2) for extending the period of filing appeal due to insertion of section 270AA [Second proviso to section 249(2)(b)] [W.e.f. A.Y. 2017-18]**

Due to the insertion of new section 270AA relating to immunity from imposition of penalty, etc., the Act has inserted the following proviso after the first proviso under section 249(2)(b):

Provided further that where an application has been made under section 270AA(1), the period beginning from the date on which the application is made, to the date on which the order rejecting the application is served on the assessee, shall be excluded.

In other words, 30 days period of filing the appeal shall be extended by such period.

Rationalisation of the provisions relating to Appellate Tribunal

- (1) Reference of Senior Vice-President in the Constitution of the Appellate Tribunal omitted [Section 252(3)(b), (4A) and (5)] [W.e.f. A.Y. 1-6-2016]**

Existing clause (b) of sub-section (3), sub-section (4A) and sub-section (5) of section 252 provide for the appointment and powers of Senior Vice-President of the Appellate Tribunal.

In view of the fact that there are no extra-judicial or administrative duties or difference in the pay scale attached with the post of Senior Vice-president in the Tribunal, the Act has omitted the reference of "Senior Vice-President" in the aforesaid sub-sections.

- (2) Provisions relating to filing of appeal by the department against the assessment order passed by A.O. on the direction of DRP omitted. [Section 253(2A) and (3A)] [W.e.f. 1.6.2016]**

Sub-section (2A) of section 253 provides that the Principal Commissioner or Commissioner may, if he objects to any direction issued by the Dispute Resolution Panel under section 144C(5) in respect of any objection filed on or after 1.7.2012, by the assessee under section 144C(2) in pursuance of which the Assessing Officer has passed an order completing the assessment or reassessment, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

Further, section 253(3A) of the said section provides that every appeal under section 253(2A) shall be filed within 60 days of the date on which the order sought to be appealed against is passed by the Assessing Officer in pursuance of the directions of the Dispute Resolution Panel under section 144C(5).

The Act has omitted the said sub-sections (2A) and (3A) to do away with the filing of such appeal by the Assessing Officer.

Consequently, the Act has substituted the existing sub-section (4) by the new sub-section (4) of section 253 so as to **exclude** therefrom the reference relating to

- direction of the Dispute Resolution Panel,
- section 253(2A) and
- the order of the Assessing Officer (in pursuance of the directions of the Dispute Resolution Panel).

Further, existing proviso under section 253(6) has been substituted by new proviso w.r.e.f. 1-7-2012 to provide that like

- sub-section (2), where no fee is payable by the department for filing the appeal and
- sub-section (4) where no fee is payable for filing memorandum of cross objections,

if the Department is already in appeal against the directions of DRP under section 253(2A) (as it stood before the amendment of the Finance Act, 2016), no fee shall be payable.

(3) Existing sub-section (4) of section 253 substituted by the following sub-section (4) by the Finance Act, 2016 [W.e.f. 1-6-2016]

The Assessing Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Commissioner (Appeals), has been preferred under section 253(1) or (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in section 253(3).

(4) Period of rectification of mistake from the order of Appellate Tribunal reduced from 4 years to 6 months [Section 254(2) amended] [W.e.f. 1-6-2016]

The existing section 254(2) provides that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time **within four years from the date of the order**.

In order to bring certainty to the order of ITAT, the Act has amended section 254(2) to provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time **within 6 months from the end of the month in which the order was passed**.

(5) Enhancement of monetary limit of disposing of a case by a single member of ITAT from 15 lakh to 50 lakh [Section 255(3) amended] [W.e.f. 1-6-2016]

The existing provision of section 255(3), inter alia, provides that a single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed ₹ 15,00,000.

In view of the recent increase in monetary limit for filing appeal before ITAT and to expedite the process of dispute resolution at the level of ITAT, the Act has amended the said sub-section (3) so as to provide that a single member bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed ₹ 50,00,000.

DIVIDEND DISTRIBUTION TAX [SEC 115-O & 115R]

SL.NO	PARTICULARS	AMOUNT ₹
1	DIVIDEND DISTRIBUTED	100
2	GROSSING UP OF DIVIDEND DISTRIBUTED	117.650
3	DIVIDEND DISTRIBUTION TAX@ 15% ON ₹117.65	17.647
4	ADD: SURCHARGE @12%	2.118
5	Add: EDUCATION CESS @3% ON ₹19.765	0.593
6	AMOUNT PAYABLE AS DDT	20.358

DOUBLE TAXATION AVOIDANCE AGREEMENT**Equalization Levy:**

Levy on certain services: With a need to reconcile the physical presence-based permanent establishment rules with the new digital reality and imposition of final withholding tax on certain payments for digital goods or services by a foreign e-commerce provider, an equalisation levy at 6 % of the amount of consideration for specified services received or receivable by a non-resident not having permanent establishment in India, from a resident in India who carries out business or profession, or from a non-resident having permanent establishment in India shall be levied .

Specified Service means: (a) Online Advertisement; (b) Provision for digital advertising space or any other facility or service for the purpose of online advertisement.

Relief to small players: In order to reduce the burden of small players and business houses in the digital domain, no such levy shall be made if the aggregate amount of consideration for specified services received or receivable by a non-resident does not exceed one lakh rupees in any previous year. Where the payment for the specified service by the person resident in India, or the permanent establishment in India is not for the purposes of carrying out business or profession, equalisation levy shall not be charged. In other words, only Business to Business (B2B) transactions are within the purview of equalisation levy.

Due date for payment: Equalisation levy deducted during any calendar month is to be paid to the credit of the Central Government by remitting it to the Reserve Bank of India or the State Bank of India or any other authorised bank, accompanied by an equalisation levy challan by 7th of the month immediately following the calendar month. The amount of consideration of specified services, equalisation levy, interest and penalty payable shall be rounded off to the nearest multiple of ten rupees.

Interest: Every assessee, who fails to credit the equalisation levy or any part thereof as stipulated above to the account of the Central Government within the due dates as mentioned above, shall be liable to pay simple interest at the rate of 1% of such levy for every month or part of a month by which such crediting of the tax or any part thereof is delayed.

Penalty: Where a person who is required to withhold equalisation levy does not deduct, or after deducting fails to pay, the whole or any part of the levy, he shall be liable to pay penalty equal to

- (i) The amount of equalization levy that he failed to deduct or (ii) a penalty of Rs.1,000 for every day during which the failure continues subject to the amount of equalisation levy as the case may be.

Furnishing of return: The statement of specified service is required to be furnished electronically in Form No.1 (verified through either a digital signature or an electronic verification code by an authorised signatory) on or before 30 June immediately following that financial year. A penalty of Rs. 100 for every day during which the failure continues shall be levied for delay in furnishing of statement.

Prevention of Double taxation: Sec.10 (50) provides that any income arising from providing specified services on which equalisation levy is chargeable shall be exempt in the hands of the service provider.

Disallowance: Where a person who is required to withhold equalisation levy does not deduct or after deducting fails to pay, the whole or any part of the levy, consideration paid or payable shall not be allowed as deduction to an assessee as warranted u/s. 40(a)(ib). However, if the equalisation levy is deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in Sec. 139(1), the sum shall be allowed as deduction in computing the income of previous year in which such levy has been actually paid.

Exemption from submission of documents: A non-resident claiming exemption u/s. 10(50) is not required to furnish:

- a) A certificate of his being a resident in any country outside India or specified territory outside India is obtained by him- 90(4)(or)
- b) Prescribed documents and information-90(5)

As the aforesaid exemption is under the Act and not under a DTAA.

Other amendments

1. "Hearing" includes communication of data and documents through electronic mode.

Definition of term "hearing" [Section 2(23C) inserted] [W.e.f. 1-6-2016]

To provide adequate legal framework for paperless assessment in order to enhance efficiency and reduce the burden of compliance, the Act has inserted the following definition of the word "hearing".

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